1 2 3 4 5 6 7	KAMALA D. HARRIS Attorney General of California DIANN SOKOLOFF Supervising Deputy Attorney General SUSANA A. GONZALES Deputy Attorney General State Bar No. 253027 1515 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 Telephone: (510) 622-2221 Facsimile: (510) 622-2270 Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against: Case No. 2011- 690		
12	TIFFANY DAWN ALLISON 252 Calle Marguerita #C		
13	Los Gatos, CA 95032 Registered Nurse License No. 759025 A C C U S A T I O N		
14	Respondent.		
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17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her		
20	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
21	Consumer Affairs.		
22	2. On or about August 31, 2009, the Board of Registered Nursing issued Registered		
23	Nurse License Number 759025 to Tiffany Dawn Allison (Respondent). The Registered Nurse		
24	License was in full force and effect at all times relevant to the charges brought in this Accusation		
25	and will expire on December 31, 2012, unless renewed.		
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Accusation

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board),
Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
- 6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY AND REGULATORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."
- 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 10. California Code of Regulations, Title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

FIRST CAUSE FOR DISCIPLINE

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(Unprofessional Conduct – Use of Alcohol in a Dangerous Manner) (Bus. & Prof. Code §§ 2761, subd. (a), 2762, subd. (b))

Respondent has subjected her registered nurse license to disciplinary action under

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are as follows:

Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that she

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engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances

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13. On or about April 15, 2010, at approximately 11:10 p.m., the manager on duty at a

Walgreens store on El Camino Real in Santa Clara, California, noticed a red vehicle parked in the

Walgreens parking lot. The vehicle's engine was running and the lights were on. While the

manager made his rounds in the parking lot, he noticed that the vehicle had not moved and the

engine was still running. The manager drove his car up to the vehicle and observed Respondent

slumped over in the driver's seat with her face resting on the steering wheel. At approximately

11:33 p.m., the manager called 911 and waited next to Respondent's vehicle until the police

arrived. At approximately 11:35 p.m., two Santa Clara Police Officers (Officer 1 and Officer 2)

were dispatched to the Walgreens parking lot for a welfare check on Respondent. When Officer 1

arrived, he observed Respondent's vehicle stopped on the southern side of the Walgreens

driveway facing westbound, opposite the direction of travel and blocking traffic. Officer 1

observed Respondent sitting in the driver's seat of her vehicle, slumped over to her right,

apparently asleep. Officer 1 knocked on the driver's-side window and Respondent shook and sat

upright, appearing confused. Officer 1 opened the driver's side door and told Respondent to turn

the vehicle off. Officer 1 immediately smelled a strong odor of alcohol. Respondent stated. "My

friends drove me home, I wasn't driving." When Officer 1 asked Respondent how much she had

had to drink that night and where she was coming from, Respondent appeared confused. Officer

1 asked Respondent to step outside of the vehicle. Respondent staggered when she stood up and

stated that she did not know where she was. Officer 1 observed Respondent lean against her

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vehicle to maintain her balance. He also noticed that Respondent's speech was slow and slurred, and her eyes were red and watery. Officer 1 determined that conducting Field Sobriety Tests on scene was unsafe due to Respondent's confused state and inability to stand or walk without assistance. Meanwhile, Officer 2 obtained a statement from the Walgreen's manager.

transported her to the Santa Clara Police Department, where Respondent consented to a breathalyzer test. The results of the first test, taken at 12:53 a.m., showed that Respondent had a blood alcohol content of .26 percent. The results of the second test, taken at 12:56 a.m., showed that Respondent had a blood alcohol content of .24 percent. After waiving her Miranda rights, Respondent told Officer 1 that she left work as a registered nurse at a medical facility in Mountain View that evening at 6:45 p.m. She then went to the "V Bar" at Santana Row with some friends from work and a surgeon. Respondent stated that she began drinking at approximately 7:30 p.m., and that she consumed one martini, two shots of liquor, and a glass of white wine. Respondent could not recall what time she stopped drinking or when she left the bar. Officer 1 administered a series of field sobriety tests to Respondent, which she performed poorly.

SECOND CAUSE FOR DISCIPLINE

 $(Unprofessional\ Conduct-Conviction)$

(Bus. & Prof. Code §§ 490, 2761 subd. (f), 2762, subd. (c); Cal. Code Regs, tit. 16, § 1444)

- 15. Complainant realleges the allegations contained in paragraphs 12 through 14 above, and incorporates them by reference as if fully set forth.
- 16. Respondent has subjected her registered nurse license to disciplinary action under Code sections 490, 2761, subdivision (f), and 2762, subdivision (c), as well as California Code of Regulations Title 16, section 1444 in that she was convicted of a crime involving the consumption of alcohol which is substantially related to the qualifications, functions, and duties of a registered nurse. Specifically, on or about July 15, 2010, in a criminal matter entitled *The People of the State of California v. Tiffany Allison*, in Santa Clara County Superior Court, Case Number C1075650, Respondent was convicted by plea of nolo contendre of one count of violating Penal Code section 23152, subdivision (b) (driving under the influence of alcohol with a

blood alcohol content of .08 percent or more), a misdemeanor. Respondent was sentenced to 12 days in jail and ordered to pay various fees and fines.

DISCIPLINE CONSIDERATIONS

17. To determine the degree of discipline, if any, to be imposed on Respondent,
Complainant alleges that on or about October 23, 2002, in a criminal case entitled *City of*Lawrence v. Tiffany Dawn Allison, in the Municipal Court of Lawrence, Kansas, Docket Number 0200151776, Respondent entered a Diversion Agreement with the City based upon Respondent being charged with the following offenses on or about July 12, 2002: driving under the influence of liquor or drugs, driving without lights, and unlawful use of a driver's license. The Diversion Agreement required Respondent to complete the requirements of an alcohol treatment program and comply with any recommendations of such program, pay various fees and fines, and not violate the law. If Respondent fulfilled the terms of the Diversion Agreement, the Court would dismiss with prejudice the charges filed against her on or about July 12, 2002.

<u>PRAYER</u> WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this

Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 759025, issued to Tiffany Dawn Allison;
- 2. Ordering Tiffany Dawn Allison to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED:	2/7/11	Lauise L. Bailey
	1 1	LOUISE R. BAILEY, M.ED., RN
		Executive Officer
		Board of Registered Nursing
		Department of Consumer Affairs

State of California

Complainant

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